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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,432	10/15/2001	Nimer Yaseen	5022.8-1	5023
23559	7590	12/22/2004	EXAMINER	
MUNSCH, HARDT, KOPF & HARR, P.C. INTELLECTUAL PROPERTY DOCKET CLERK 1445 ROSS AVENUE, SUITE 4000 DALLAS, TX 75202-2790			BILGRAMI, ASGHAR H	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/978,432	YASEEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Asghar Bilgrami	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10/15/2001.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 February 2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/04/02</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

*Information Disclosure Statement*

1. The information disclosure statement (IDS) submitted on October 15, 2001 was filed after the mailing date of the application on March 4, 2002. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

*Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim1-3, 5-10 & 13-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Dharanikota et al (U.S. Pub No. 2002/0107908).

4. As per claims 1 & 9 Dharanikota disclosed a method of transmitting packet-switched data in a network having a plurality of nodes therein, the method comprising the steps of: defining an ingress rate restriction for each of at least two nodes of the plurality of nodes, the ingress rate restriction limiting the amount of data that may be transmitted from the respective node on at least one channel of the network; defining an egress rate restriction for each of the at least two nodes of the plurality of nodes, the egress rate restriction limiting the amount of data that may be transmitted to the respective node on the at least one channel of the network (page.1, paragraph.12); monitoring the amount of data transmitted from and to a first node (page. 6, paragraph 54); and disallowing at least

a portion of one of an attempted data transfer from and to the first node when one of the respective ingress rate restriction and egress rate restriction would be violated by the attempted data transfer (page. 6, paragraph 59).

5. As per claims 2 & 10 Dharanikota disclosed the network according to claim 1, wherein the network is the Internet (page.3, paragraph.27).

6. As per claims 5 & 13 Dharanikota disclosed the network according to claim 1, wherein the at least one egress rate restriction includes a egress committed rate defining a minimum transfer rate reserved in the network for transfers to the respective node and an egress peak rate defining a maximum transfer rate allowable in the network for transfers to the respective node, and the at least one ingress rate restriction includes an ingress committed rate defining a minimum transfer rate reserved in the network for transfers from the respective node and an ingress peak rate defining a maximum transfer rate allowable in the network for transfers from the respective node (page.2, paragraph.12, page.3, paragraphs.28 & 35).

7. As per claims 6 & 14 Dharanikota disclosed the network according to claim 1, wherein the at least one communication channel is a point-to-point communication channel (page.2, paragraphs.12 & 13).

8. As per claims 7 & 15 Dharanikota disclosed the network according to claim 1, wherein the at least one communication channel is a point- to-multipoint communication channel (page.2, paragraph.12).

9. As per claim 8 Dharanikota disclosed the network according to claim 1, wherein an allowed transmission from the first node to the second node includes either the requested transmission or a portion thereof the management node monitoring transmission from the first node to the second node (page.2, paragraphs.12 & 13).

*Claim Rejections - 35 USC § 103*

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 3, 4, 11 & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dharanikota et al (U.S. Pub No. 2002/0107908) and Kodialam et al (U.S. Pub No. 2002/0018264A1).

12. As per claims 3, 4, 11 & 12 McDyson disclosed the network according to claim 1 (page.3, paragraph 27). However McDyson did not explicitly describe, wherein the first node and the second node are optical transport network nodes and at least one communication channel is a fiber optic link.

Kodialam disclosed wherein the first node and the second node are optical transport network nodes and at least one communication channel is a fiber optic link (page.2, paragraph. 22).

It would have been obvious to one in the ordinary skill in the art to include fiber optic networks described by Kodialam in the category of networks mentioned by Dharanikota

Art Unit: 2143

since fiber optic networks namely ATM, support services involving voice, video and data.

*Conclusion*

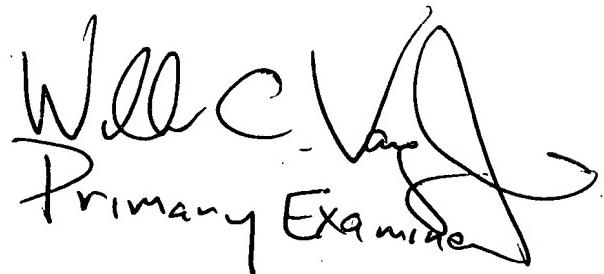
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asghar Bilgrami whose telephone number is 571-272-3907. The examiner can normally be reached on M-F, 8:00-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Asghar Bilgrami  
Examiner  
Art Unit 2143

AB

  
Asghar Bilgrami  
Primary Examiner